

Message Text

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PASS AGRICULTURE

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TAGS: EAGR EEC ETRD

SUBJECT: FRENCH ADVERTISING RESTRICTIONS ON ALCOHOL

BEGIN SUMMARY: THE COMMISSION HAS INVESTIGATED THE FRENCH ADVERTISING RESTRICTIONS ON ALCOHOL PRODUCTS (LONG THE SUBJECT OF U.S. COMPLAINTS) AND FINDS THEM INCONSISTENT WITH THE ROME TREATY. END SUMMARY.

1. IN A RESPONSE TO AN EC PARLIAMENTARY QUESTION, (OFFICIAL JOURNAL NO. C 203 OF 8/30/76) THE COMMISSION HAS STATED THAT FRENCH LAWS ON ADVERTISING ALCOHOLIC BEVERAGES "MIGHT BE INTERPRETED AS HAVING THE SAME EFFECT AS A QUANTITATIVE RESTRICTION."

2. ACCORDING TO OUR COMMISSION SOURCES, FRENCH ADVERTISING LAWS CLASSIFY BEVERAGES INTO FIVE CATEGORIES; 1) NON-ALCOHOLIC BEVERAGES 2) WINES (INCLUDING SPARKLING WINES) 3) WINE-BASED APERITIFS (E.G. VERMOUTHS) 4) LIQUEURS AND BRANDIES 5) GRAIN-BASED, TUBER-BASED AND ANISE-BASED ALCOHOLIC BEVERAGES. FRENCH LAWS ALLOW THE FREE ADVERTISING OF CATEGORIES

1, 2 AND 4, RESTRICT THE ADVERTISING OF CATEGORY 3, AND BAN THE ADVERTISING OF CATEGORY 5. AS A RESULT, THE ADVERTISING OF MOST

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FRENCH-PRODUCED PRODUCTS IS RELATIVELY FREE. FRANCE IS THE ONLY

EC MEMBER STATE THAT REGULATES THE ADVERTISING OF ALCOHOL IN SUCH A DISCRIMINATORY FASHION. THE FRENCH HAVE DEFENDED THEIR ADVERTISING LAWS ON POLITICAL AND SCIENTIFIC GROUNDS, ARGUING, INTER ALIA, THAT ALCOHOLIC BEVERAGES WHICH ARE USUALLY CONSUMED BEFORE MEALS, E.G. WHISKIES, ARE MORE HARMFUL TO HEALTH THAN THOSE NORMALLY CONSUMED DURING OR AFTER MEALS. E.G. WINES OR LIQUEURS.

3. THE COMMISSION FIRST STARTED IN 1969 TO LOOK INTO THE QUESTION OF WHETHER THE FRENCH ADVERTISING LAWS WERE DISCRIMINATORY AND INCONSISTENT WITH COMMUNITY LAW. AT THAT TIME THE COMMISSION RECOMMENDED THAT THE EXCLUSIVE TRADING RIGHTS OF MEMBER STATE MONOPOLIES ON TOBACCO AND ALCOHOL ACTED TO DISCRIMINATE AGAINST INTRA-EC TRADE AND SHOULD BE LIBERALIZED. THE FRENCH ALCOHOL ADVERTISING LAWS WERE ONLY TANGENTIALLY ADDRESSED BY THE COMMISSION INVESTIGATORS AS IT WAS THOUGHT THAT THESE DISCRIMINATORY LAWS WERE A DIRECT RESULT OF THERE BEING AN ALCOHOL MONOPOLY IN FRANCE.

4. SINCE THAT TIME, ALL THE MEMBER STATE MONOPOLIES ON ALCOHOL HAVE BEEN LIBERALIZED EXCEPT FRANCE'S. THE COMMISSION'S DG IV (COMPETITION) INVESTIGATION OF THE FRENCH MONOPOLY CONTINUES, HOWEVER, THE ADVERTISING LAWS HAVE BEEN SEPARATED AS A LEGAL ISSUE AND ARE BEING INVESTIGATED BY DG XI (INTERNAL MARKET) OFFICIALS. THESE OFFICIALS TELL US THAT THEIR INVESTIGATION HAS CONCLUDED THAT THE FRENCH LAWS ARE INCONSISTENT WITH ARTICLE 30 OF THE ROME TREATY WHICH PROHIBITS QUANTITATIVE RESTRICTIONS OR EQUIVALENT MEASURES ON INTRA EC IMPORTS. THE COMMISSION HAS INFORMED THE FRENCH OF THIS CONCLUSION AND HAS RECOMMENDED THAT THE FRENCH TAKE CERTAIN STEPS TO CORRECT THE MATTER. DISCUSSIONS ARE TAKING PLACE AT A HIGH POLITICAL LEVEL, ACCORDING TO OUR SOURCES. IF THE FRENCH RESPONSE PROVES UNSATISFACTORY, THE COMMISSION WILL PROCEED TO PUBLISH A "REASONED OPINION" ON ITS FINDINGS TO WHICH THE FRENCH MUST RESPOND. AFTERWARDS SHOULD THE MATTER REMAIN UNRESOLVED, IT WILL BE REFERRED BY THE COMMISSION TO THE EUROPEAN COURT OF JUSTICE. OUR COMMISSION SOURCES WOULD NOT TELL US HOW THE DISCUSSIONS WERE GOING BETWEEN THE COMMISSION AND FRENCH, NOR WOULD THEY COMMENT ON THE TIMETABLE OF THESE DISCUSSIONS.

5. ALTHOUGH TECHNICALLY SPEAKING, THE COMMISSION CONCERN IN THIS CASE IS WITH INTRA-EC BARRIERS, OUR SOURCES INDICATED THAT IT WOULD BE DIFFICULT FOR THE FRENCH TO LIBERALIZE LIMITED OFFICIAL USE

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THEIR ADVERTISING RESTRICTIONS ON PRODUCTS IMPORTED FROM MEMBER STATES ALONE. FOR EXAMPLE, IF THE FRENCH ALLOWED THE ADVERTISING OF ALCOHOLIC BEVERAGES PRODUCED IN OTHER MEMBER STATES AND THIRD-COUNTRY PRODUCTS TRANSHIPPED THROUGH OTHER MEMBER STATES, THEY WOULD HAVE TO ALLOW ADVERTISING OF PRODUCTS FROM THIRD COUNTRIES DIRECTLY IMPORTED FROM THOSE COUNTRIES.

6. ON A RELATED MATTER, THE COMMISSION IS ALSO REVIEWING

THE MEMBER STATE FISCAL TAXATION SYSTEMS ON ALCOHOLIC BEVERAGES
PRODUCED IN OTHER MEMBER STATES; E.G. THE U.K. TAXES WINE
MORE HEAVILY THAN BEER, ITALY TAXES SPIRITS OBTAINED FROM
GRAINS OR POTATOES AT A HIGHER RATE THAN OTHER SPIRITS.HINTON

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